

2008 TRIBAL RELATIONS TRAINING TRACK 2: LEGAL ISSUES

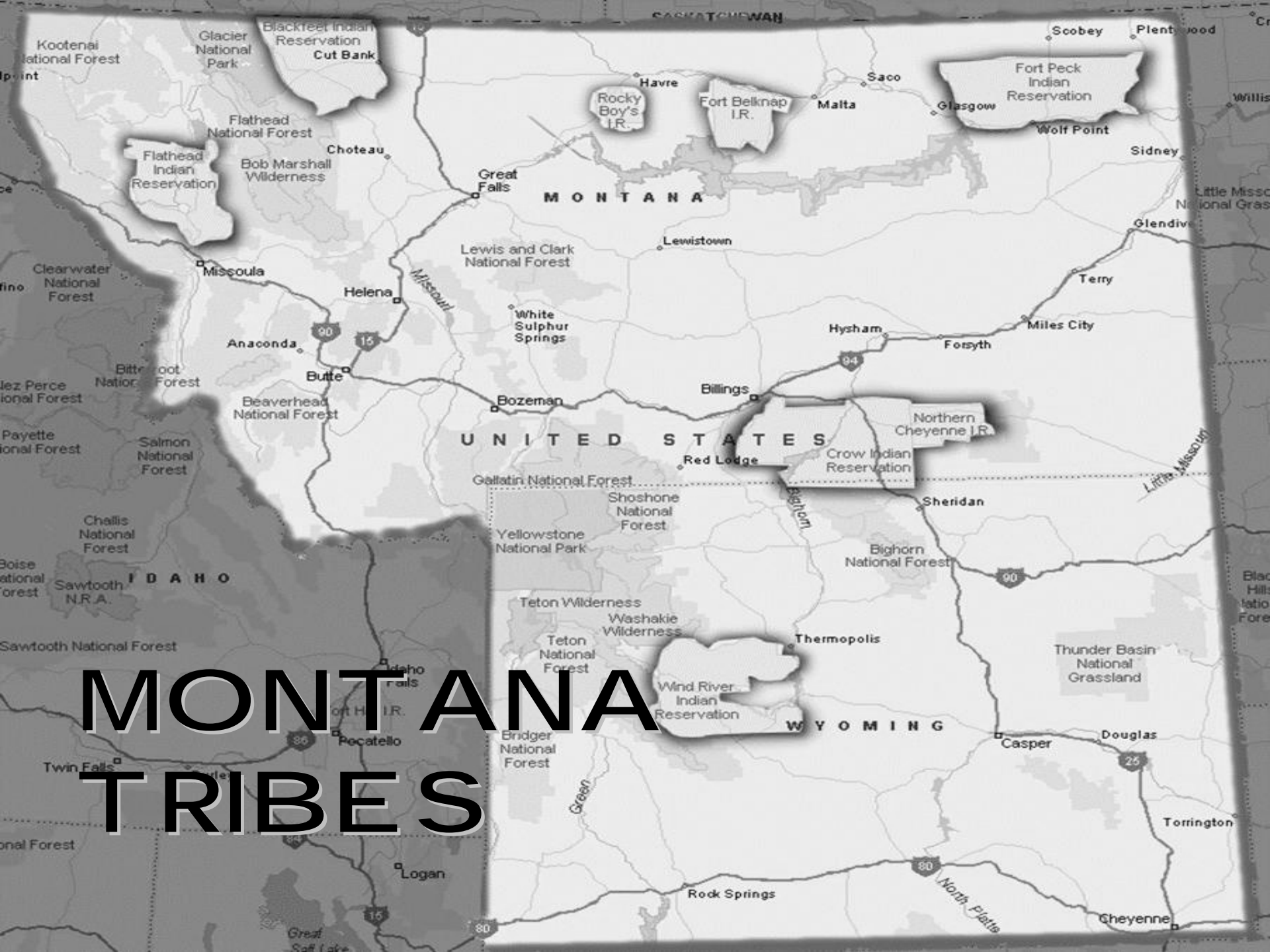


“Working Effectively With Tribal Governments”

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Helena, MT



MONTANA TRIBES

Issues to be Discussed Today:

- Principles of Tribal Sovereignty
- Contracting with Tribal Governments
- Negotiation Tips
- Recurring Contract Terms



Principles of Tribal Sovereignty

- The overarching principle of Tribal sovereignty is that:
 - Tribes are and have always been sovereign nations,
 - Tribes pre-existed the federal Union and draw our right from our original status as sovereigns before European arrival.





Principles of Tribal Sovereignty



The Foundation: Tribes are Sovereign Nations

- ❑ The provision of health, education and welfare services to Tribes is a direct result of treaties and executive orders entered into between the United States and Tribes.
 - ❑ This federal trust responsibility forms the basis of providing health, education and welfare services to Tribal people.
 - ❑ This relationship has been reaffirmed by numerous court decisions, Presidential proclamations, and Congressional laws.
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Principles Established by Treaties

- ❑ Primary principle—Land exchanged for protection, payments, and services
 - ❑ Tribes are distinct governments
 - ❑ States have limited jurisdiction over Indian affairs
 - ❑ Treaties give U.S. a trust responsibility over Tribes
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Contracting with Tribal Governments



State/Tribal Relations

- Tribal Perspective
 - Sovereignty
 - Gov't-to-Gov't

- State/Tribal Relations
 - Cooperative Relations
 - Common Interests





Tips on Negotiating with Tribal Governments



Negotiation Tips

- ☐ Who are you Negotiating with?
- ☐ Authority to Negotiate
- ☐ Approval Process
- ☐ Tribal Protocols
- ☐ Indian Law Principles
- ☐ Funding Source
- ☐ Delivery of Governmental Services





Recurring Contract Terms



Contract Terms


- Waiver of Sovereign Immunity
- Limited Waiver of Sovereign Immunity
 - Choice of Forum/Venue
 - Choice of Law
 - Damages





Successful Negotiations





"No right is more sacred to a nation, to a people, than the right to freely determine its social, economic, political and cultural future without external interference. The fullest expression of this right occurs when a nation freely governs itself."

The Late Joseph B. DeLaCruz
Former President
Quinault Nation, 1972 – 1993



Tribal/Federal Government

Tribal Health	Tribal Education
Culture Based Approach to Mental Health	Culture Based Approach to Education
Tribal Health Department	Tribal Education Department
<ul style="list-style-type: none"> ■ Compact IHS All Services/Programs includes: - <ul style="list-style-type: none"> □ Behavioral Health □ CDC ■ Contract IHS Programs <ul style="list-style-type: none"> □ CDC 	<ul style="list-style-type: none"> ■ Compact All BIA Services/Programs <ul style="list-style-type: none"> □ <i>BIA Schools</i> ■ Contract BIA Programs
<ul style="list-style-type: none"> ■ Compact Services outside IHS (DHHS/SAMHSA, NIH, CDC)– Title VI 	<ul style="list-style-type: none"> ■ Compact Services outside of BIA (DHHS, DOE) – Title VI

Tribal/State Government

Tribal Health	Tribal Education
Culture Based Approach to Mental Health	Culture Based Approach to Education
Tribal Health Department	Tribal Education Department
<p>■ Contract DPHHS Services include:</p> <ul style="list-style-type: none"> □ MAM, □ Medicaid Eligibility Determination □ TANF 	<p>■ Contract OPI Services i.e.</p> <ul style="list-style-type: none"> □ Education Standards and Accreditation
□ Tribal/State/Federal Tri Party Agreements	□ Tribal/State/Federal Tri Party Agreements

CCT/State of Montana Medicaid Eligibility Determination Contract

- ❑ In FY 2007, the Chippewa Cree Tribe and the State of Montana signed a contract for eligibility determination,
 - ❑ Having the ability to assist Tribal applications by determining Medicaid eligibility on site at our Tribal healthcare center will facilitate access to care for eligible Indian users that are eligible Medicaid users.
 - ❑ Getting access to healthcare through Medicaid to those eligible Montana citizens (whether Indian or non-Indian) as soon as possible benefits the recipient and the State of Montana.
 - ❑ A healthy state community is one where its citizens can fully participate in education, employment and economic development.
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Tribal/State/Federal Workgroup

- ❑ Jonathan Windy Boy, CCT Business Committee
 - ❑ Kermit Horn, Fort Belknap Indian Community Council
 - ❑ Daniel Belcourt, Legal Counsel, CCT
 - ❑ Fawn Tadios, CEO, RBHB
 - ❑ John Johnson, Assistant Director, RBHB
 - ❑ Connie Farmer,
 - ❑ Renita Watson, Alternate Resources Coordinator
 - ❑ Loni Whitford
 - ❑ Lena Belcourt, Policy Analyst, Belcourt Law
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 - ❑ Shannon Real Bird, MAM Coordinator, Crow Tribal Health Department
 - ❑ Nancy Vaughan, Assistant Director, CS&KT Health Department
 - ❑ Constance Morigeau, Budget Analyst, CS&KT Health Department
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Tribal/State/Federal Workgroup

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